

Notice of Appeal

85819575

From: PETITIONER: APPLICANT
BIO CORP. a Delaware Corporation and
Marshall-Edward: Mikels Authorized Representative
Correspondence Address Concerning this Petition is:
1625 Grant Road, Mount Shasta, California (96067)
530-918-4162 biocorp@nctv.com

NOTICE CONCERNING PAYMENT OF FEE

UNITED STATES PATENT AND TRADEMARK OFFICE

BIO CORP and MARSHALL E. MIKELS

Petitioner

v

UNITED STATES PATENT AND
TRADEMARK OFFICE,
MIR INNOVATIONS INC., GREG CLARK
And. ALPHA MEN'S EDGE NUTRITION, INC.

Respondent

APPLICATION SERIAL NO. 85819575

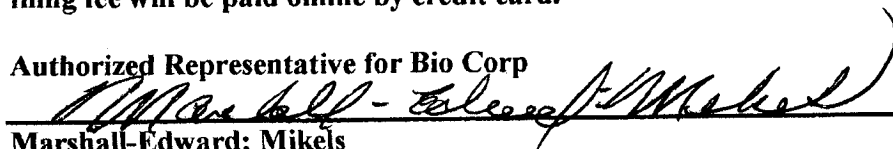
**NOTICE OF AND PETITION
INCLUDING AFFIDAVIT OF
MARSHALL-EDWARD: MIKELS
FOR REVERSAL OF FINAL REFUSAL
OFFICE ACTION AND
REGISTRATION OF U.S. APPLICATION
SERIAL NO. 85819575**

PETITION

**FOR REVERSAL OF THE FINAL REFUSAL OFFICE ACTION ISSUED BY
THE USPTO ON 4/4/2014 AND FOR REGISTRATION OF TRADEMARK
U.S. APPLICATION SERIAL NO. 85819575**

**This is notice that an online Petition will be filed in addition to this copy and the
filing fee will be paid online by credit card.**

Authorized Representative for Bio Corp


Marshall-Edward: Mikels

1 **From: PETITIONER: APPLICANT**
2 **BIO CORP. a Delaware Corporation and**
3 Marshall-Edward: Mikels Authorized Representative
4 Correspondence Address Concerning this Petition is:
5 1625 Grant Road, Mount Shasta, California (96067)
6 530-918-4162 biocorp@nctv.com

7
8 **UNITED STATES PATENT AND TRADEMARK OFFICE**
9

10 BIO CORP and MARSHALL E. MIKELS

APPLICATION SERIAL NO. 85819575

11
12 Petitioner
13 v.

**NOTICE OF AND PETITION
INCLUDING AFFIDAVIT OF
MARSHALL-EDWARD: MIKELS
FOR REVERSAL OF FINAL REFUSAL
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REGISTRATION OF U.S. APPLICATION
SERIAL NO. 85819575**

14 UNITED STATES PATENT AND
15 TRADEMARK OFFICE,
16 MIR INNOVATIONS INC., GREG CLARK
And. ALPHA MEN'S EDGE NUTRITION, INC.

17 Respondent

18 **PETITION**
19 **FOR REVERSAL OF THE FINAL REFUSAL OFFICE ACTION ISSUED BY THE USPTO**
20 **ON 4/4/2014 AND FOR REGISTRATION OF TRADEMARK**
21 **U.S. APPLICATION SERIAL NO. 85819575**

22 **THIS PETITION IS PROVIDED FOR REMEDY**
23 **UNDER 37 CFR§2.146 PETITIONS TO THE DIRECTOR**

24 **To: DEBORAH COHN,**
25 Commissioner of Trademarks United States
26 and assigned Director
27 Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314, Delivered by Certified Mail 7013 2250 0001 5791 2720

NOTICE OF AND PETITION FOR REVERSAL OF FINAL REFUSAL OFFICE ACTION AND
REGISTRATION OF U.S. APPLICATION SERIAL NO. 85819575 October 2, 2014
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
IN REF. TO AFFIDAVIT OF PRIOR USE AND NON-ABANDONMENT OF BIO CORP TRADEMARK

USPTO ATTORNEY(s):

TOBY ELLEN BULLOFF,

Esquire, Official Capacity

Examining Attorney for the United States

Patent and trademark Office

Law Office 119, 600 Dulany Street

Alexandria, VA 22314 Delivered by UPS Overnight 1Z6F90640152995157

OPPOSING PARTY

Mir Innovations, Inc. CORPORATION TEXAS

GREG CLARK Executive Officer, official capacity

And, Greg Clark, individual capacity

534 CONTINENTAL DRIVE, LEWISVILLE TX 75067,

And, Greg Clark CEO Alpha Men's Edge Nutrition, Inc.

2701 Little Elm Pkwy Ste 100 #527 Little Elm, TX 75068 and 534 CONTINENTAL DRIVE,

LEWISVILLE TX 75067, Delivered by Certified Mail 7013 2250 0001 5791 2737

TO ALL CONCERNED, this Petition is filed for relief under the following provisions of 37 CFR or other law. If this Petition is determined to be not allowed for any reason then the Petitioner files this as an Appeal so as to maintain a filing within the time provided and will amend as necessary.

§2.146 Petitions to the Director.

(a)

Petition may be taken to the Director:

(1)

From any repeated or final formal requirement of the examiner in the ex parte prosecution of an application if permitted by § 2.63(b);

(2)

In any case for which the Act of 1946, or Title 35 of the United States Code, or this part of Title 37 of the Code of Federal Regulations specifies that the matter is to be determined directly or reviewed by the Director;

(3)

to invoke the supervisory authority of the Director in appropriate circumstances;

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1 (4)

2 In any case not specifically defined and provided for by this part of Title 37 of the Code of
3 Federal Regulations;

4 (5)

5 In an extraordinary situation, when justice requires and no other party is injured thereby, to
6 request a suspension or waiver of any requirement of the rules not being a requirement of the
7 Act of 1946.

8 **§2.63 Reexamination. (b)**

9 After reexamination the applicant may respond by filing a timely petition to the Director for relief
10 from a formal requirement if (2) the examiner's action is made final and such action is limited to
11 subject matter appropriate for petition to the Director. If the petition is denied, the applicant shall
12 have until six months from the date of the Office action which repeated the requirement or made it
13 final or thirty days from the date of the decision on the petition, whichever date is later, to comply
14 with the requirement.

15 **AFFIDAVIT**

16 "Indeed, no more than affidavits are necessary to make the prima facie case." United
17 States v. Kis, 658 F.2d, 526, 536 (7th Cir. 1981); Cert. Denied, 50 U.S. L. W. 2169; S. Ct. March
18 22, 1982

19 1. TO ALL CONCERNED the undersigned Affiant, Marshall-Edward: Mikels,
20 does solemnly swear, declare and state as follows:

21 2. Affiant is competent to state the matters set forth herein.

22 3. Affiant has personal knowledge of the facts stated herein.

23 4. Those matters not within the personal knowledge of Affiant or law are based upon
24 information, belief and public record.

25 5. All the facts herein are true, correct and complete, admissible as evidence and if called upon as
26 a witness, Affiant will testify to their veracity.

6. I, Marshall-Edward: Mikels, ("herein after "Mikels") have indefeasible title to my land and

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1 lawful owner of the landed estate known as MARSHALL EDWARD MIKELS and its trusts, bonds,
2 real property and interest or any combination of the all cap entity and the Authorized Representative
3 for MARSHALL MIKELS ***-**-8951 and for Bio Corp, a Delaware corporation.

4 7. I, Marshall-Edward: Mikels, am the Authorized Representative and an officer for BIO
5 CORP/Bio Corp under FRCP, Rule 17, and under Delaware Supreme Court Rule 57 and make this
6 Affidavit in support of this Appeal.
7

8 8. All of the filings in this matter are incorporated herein for all purposes by this reference.
9
10 To the United States Patent and Trademark Office and all Parties Concerned:

11 **APPEAL BY AFFIDAVIT**

12 9. The following Appeal is by the Affidavit of Marshall-Edward: Mikels President and
13 Authorized Representative of Bio Corp who attests to the following facts based on personal first hand
14 knowledge and to those matters not within the personal knowledge of Affiant or law are based upon
15 information, belief and public record.
16

17 10. This is an Appeal by Affidavit to reverse the office action of "FINAL REFUSAL" issued on
18 04/04/14 by examining attorney TOBY BULLOFF that refused Bio Corp's Trademark Application
19 Serial Number 85819575 MISCELLANEOUS DESIGN of the Vitruvian Man on the basis of a
20 "likelihood of confusion". Procedural errors were made in the "FINAL REFUSAL" office action and
21 this Petition is filed to correct the errors and to allow the Registration of the Bio Corp Application
22 Number 85819575 for the reasons set forth below:
23
24

25 11. On 04/04/2014 Toby E. Bulloff, Trademark Examining Attorney assigned to the subject Bio
26 Corp Application No. 85819575, Law Office 119, (571) 270-1531, toby.bulloff@uspto.gov,

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1 responded to the Petitioner's revival of the subject Bio Corp Application and issued a "OFFICE
2 ACTION" "SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION"

3 That states in part as follows:

4 *"In reference to applicant's communication filed on February 10, 2014. Due to applicant's*
5 *revival, the examining attorney has re-searched the Office's database of marks.*

6 *Applicant was instructed to respond to the likelihood of confusion refusal. For the reasons*
7 *set forth below, the refusal under Trademark Act Section 2(d) is now made FINAL with*
8 *respect to U.S. Registration No. 4332952. (Exhibit 3 below) See 15 U.S.C. §1052(d); 37*
9 *C.F.R. §2.64(a).*

10 *Applicant's arguments have been considered and found unpersuasive for the reasons set*
11 *forth below.*

12 **SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

13 *Registration of the applied-for mark is refused because of a likelihood of confusion with the*
14 *mark in U.S. Registration No. 4332952. Trademark Act Section 2(d), 15 U.S.C. §1052(d);*
15 *see TMEP §§1207.01 et seq.*

16 **PROCEDURAL ERROR IS CAUSE FOR REVERSAL OF USPTO**
17 **FINAL REFUSAL OF APPLICATION NO. 85819575**
18 **SHOWN BELOW AS EXHIBIT 2**

19 **BIO CORP'S APPLICATION NO. 85819575**

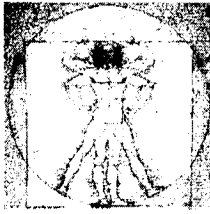


23 **Bio Corp's Vitruvian Man Trademark used since 1991 and claimed in use since**
24 **April 15, 1992 in Registration Number 2964648. And, in the Subject Application 85819575 filed**
25 **on January 9th 2013, suspended by USPTO April 29th 2013, refused on May 13, 2013 on the basis of**
26 **"likelihood of confusion" with Mir Innovations Inc.'s mark shown below in Exhibit 3. The subject Bio**
Corp trademark design used in its application 85819575 is referred to as Exhibit 2.

USPTO FINAL REFUSAL WAS BASED ON A LIKELIHOOD OF CONFUSION WITH
REGISTRATION NUMBER 4332952 SHOWN BELOW AS EXHIBIT 3

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The Mir Innovations Inc. Application/Registration Number 4332952 was based on a claim of a "significantly altered design" of the Vitruvian Man, filed on July 6, 2012, claimed use in Commerce December 3, 2012, by Owner: (REGISTRANT) Mir Innovations, Inc. CORPORATION TEXAS. Trademark Serial Number 85670760 Registration Number 4332952, Filing Date July 6, 2012, Registration Date May 7, 2013. See, a copy of the Mir Innovations Inc. trademark information from the USPTO web-site attached to the 1st Presentment dated February 8, 2014 as Exhibit 3.

CLAIM FOR RELIEF
1st ISSUE PROCEDURAL ERROR
CAUSE TO REVERSE THE FINAL REFUSAL OF BIO CORP'S APPLICATION NO.
85819575 FOR BEING CONFUSING SIMILAR TO
THE MIR INNOVATIONS' REGISTRATION NUMBER 4332952

TRADEMARK
PRINCIPAL REGISTER



Exhibit 4 shown here is Bio Corp's Vitruvian Man Trademark Registration No. 2068276 currently active in use since 1991-1992 Trademark Serial Number 74611538, Filing Date December 15 1994, Registration Date June 10, 1997.

12. The 1st cause for remedy is the procedural error made by the FINAL REFUSAL on the basis of a "likelihood of confusion" of the Bio Corp Vitruvian Man Application 85819575 with the Mir Innovations Inc. Application/Registration Number 4332952 (Exhibit 3). The USPTO Registration approval for the Mir Innovations Inc.'s mark was based on a claim made by Mir Innovations Inc. in its

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1 Application that its mark was a “significantly altered design” of the Vitruvian Man due to a arm
2 flexing muscle man version that Mir Innovations Inc. claimed did not present a “likelihood of
3 confusion” with the existing Bio Corp Trademark No. 2068276 Exhibit 4 shown above.
4 Therefore, a procedural error exists if now the USPTO makes the claim that a “*SECTION 2(d)*
5 *REFUSAL – LIKELIHOOD OF CONFUSION*” exists between the Mir Innovations Inc. mark and the
6 Bio Corp mark referenced above, then a procedural error exists in that the Mir Innovations Inc. mark
7 should not have been approved and Registered by the USPTO because it had a “*likelihood of*
8 *confusion*” with the currently active Bio Corp mark No. 2068276 Exhibit 4 shown above. There is
9 no way around this obvious procedural error made by the USPTO’s approval and Registration of the
10 Mir Innovations Inc. which states by its actions of approval that there is not a “likelihood of
11 confusion” between the Bio Corp mark of the unaltered Vitruvian Man and the “significantly altered”
12 Vitruvian Man. And, on that procedural error the Bio Corp Application 85819575 Exhibit 2 must be
13 allowed. If it is not allowed the result is a compounding of errors and damage to Bio Corp by first
14 allowing the Mir Innovations Inc. mark to be Registered and second, not allowing Bio Corp’s
15 Application because it conflicts with Mir Innovations Inc. mark that should have never been registered
16 if it had a “likelihood of confusion” with Bio Corp’s long standing marks.

21 **CLAIM FOR RELIEF**
22 **2nd ISSUE OF PROCEDURAL ERROR**
23 **CAUSE TO REVERSE THE FINAL REFUSAL OF BIO CORP’S APPLICATION NO.**
24 **85819575 FOR BEING CONFUSING SIMILAR TO**
25 **THE MIR INNOVATIONS’ REGISTRATION NUMBER 4332952**
AND TO CANCEL THE MIR INNOVATIONS INC. TRADEMARK RETRO ACTIVELY
FOR PROCEDURAL ERROR

26 13. The 2nd procedural error made by the FINAL REFUSAL on the basis of a “likelihood of

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1 confusion” of the Bio Corp Vitruvian Man Application 85819575 with the Mir Innovations Inc.
2 Application/Registration Number 4332952 (Exhibit 3). The USPTO Registration approval for the Mir
3 Innovations Inc.’s mark was based on a claim made by Mir Innovations Inc. in its Application that its
4 mark was a “**significantly altered design**” of the Vitruvian Man due to a arm flexing muscle man
5 version that Mir Innovations Inc. claimed did not present a “likelihood of confusion” with the
6 existing Bio Corp Trademark No. 2068276 Exhibit 4 shown above. However, if now the USPTO
7 makes the claim that a “*SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION*” exists
8 between the Mir Innovations Inc. mark and the Bio Corp mark referenced above, then a procedural
9 error existed in that the Mir Innovations Inc. mark should not have been approved and Registered by
10 the USPTO because it had a “*likelihood of confusion*” with the active Bio Corp mark **No. 2068276**
11 **Exhibit 4** shown above. There is an obvious procedural error made by the USPTO’s approval and
12 Registration of the Mir Innovations Inc. based on the Mir claim of a “significantly altered” Vitruvian
13 Man which does display a “likelihood of Confusion” with the currently active Bio Corp marks and the
14 contradictory office action in the REFUSAL of the Bio Corp Application using a “likelihood of
15 confusion” between the Bio Corp mark of the unaltered Vitruvian Man and the Mir Innovations Inc.
16 “significantly altered” Vitruvian Man. Obviously there should have never been an approval of the Mir
17 Innovations Inc. mark in the first place. And, on that procedural error the Bio Corp Application
18 85819575 Exhibit 2 must be allowed. And, the Mir Innovations Inc. mark Registration Number
19 4332952 (Exhibit 3) must be cancelled retroactively due to a procedural error of not applying a
20 “*SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION*” to the Mir Innovations Inc. mark. If
21 the Mir Innovations Inc. mark Registration Number 4332952 (Exhibit 3) is not cancelled the result
22
23
24
25
26

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1 will be a compounding of errors and damages to Bio Corp by first allowing the Mir Innovations Inc.
2 mark to be Registered and then second, not allowing Bio Corp's Application because it conflicts with
3 Mir Innovations Inc. mark that should have never been registered in the first place if it had a
4 "likelihood of confusion" with Bio Corp's long standing currently active marks used since 1991-1992.
5

6 **CLAIM FOR RELIEF**
7 **PROCEDURAL ERRORS**
8 **OCCURRED IN THE MISHANDLED FILING OF THE CONTINUED USE DECLARATION**
9 **BY BIO CORP WITHOUT NEGLIGENCE**

10 14. The 3rd claim for relief is the fact that Bio Corp has used the design mark of the unaltered
11 Vitruvian Man since 1991 on its products labels shown below which is the design used in the subject
12 Bio Corp Application 85819575 and which was previously Registered as 2964648 :
13



14
15
16 Bio Corp's Trademark officially claimed in use since April 15, 1992. Serial Number
17 76562348 Filing Date December 1, 2003 Registration Number 2964648, Date July 5, 2005. This
18 Registration was cancelled by procedural error by Bio Corp's un-intentional failure to file its
19 declaration of continued use by July 5, 2011 and cancelled by USPTO on September 21, 2012 as a
20 result of Bio Corp's non-intentional action and is referenced here as **Exhibit 5**.

21 Bio Corp failed to file a continued use declaration for Registration Number 2964648 by the deadline
22 July 5, 2011 due to a dispute that occurred between the Affiant and the Bio Corp trademark attorney
23 Thomas Cook who was employed to file the continued use declarations for Bio Corp. Thomas Cook
24 was discharged as the Bio Corp attorney and by the time the Affiant became aware of the deadline for
25 the filing of the declaration of continued use the mark had been cancelled on September 21, 2012 and
26 the subject Bio Corp Application 85819575 of the unaltered Vitruvian Man design Exhibit 2 was filed

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1 as a reactivation or a continued use of the Registration Number 2964648 which had been cancelled by
2 unintentional error. Therefore, relief is sought due to the unintentional error which under the
3 circumstances falls within the scope of procedural error and §2.146 (5) "In an extraordinary
4 situation when justice requires"

5
6 **A COURT OF RECORD DEFAULT JUDGMENT HAS ESTABLISHED THE ABOVE**
7 **BIO CORP CLAIMS FOR RELIEF AS FACT AND IS RES JUDICATA**

8 15. On May 27, 2014 a Final Default in Dishonor or "Default Judgment" was issued by a Court
9 of Record Affidavit of Marshall-Edward: Mikels and acknowledged by the third party witness Stacey
10 L. Mack's Affidavit of Non-Response dated May 27, 2014, which establish the above referenced
11 claims for relief as fact and therefore the relief sought by this Petition must be granted because the
12 matter is res judicata. The following is a listing of the Presentments delivered to the parties referenced
13 herein beginning with the most current:
14

15 **Reference: 1. AFFIDAVIT NOTICE OF NON-DELIVERY OF OFFICE ACTION NON-RESPONSE,**
16 **NON CONSENT TO CONTRACT OFFER RETURN OF OFFICE ACTION DATED 4/4/2014 AS VOID**
17 **UNLAWFUL NO EFFECT ON DEFAULT IN DISHONOR (Opportunity to Cure)**

18 **Reference: 2. NON-RESPONSE BY USPTO 4/4/14 LETTER NOT DELIVERED**
19 **BY EMAIL OR U.S. MAIL TO BIO CORP or Marshall-Edward: Mikels, from: UNITED STATES PATENT**
20 **AND TRADEMARK OFFICE (USPTO)OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S**
21 **TRADEMARK APPLICATION – FINAL REFUSAL – BY TOBEY BULLOFF, ACTION: LETTER**
22 **RETURNED WITHIN 72 HOURS MARKED, NON-RESPONSE TO COURT OF RECORD & NO**
23 **CONSENT TO CONTRACT OFFER, VOID, UNLAWFUL AND WITHOUT EFFECT.**

24 **Reference: 3. May 27, 2014, COURT OF RECORD DEFAULT JUDGMENT, NOTICE OF FINAL**
25 **DEFAULT IN DISHONOR, AFFIDAVIT OF ENTRY INTO COMMERCIAL CONTRACT, LIABILITY**
26 **AND SECURITY AGREEMENT CLAIM #0296, INCLUDING AFFIDAVIT OF NON-RESPOND BY**
27 **STACEY L. MACK**

28 **Reference: 4. April 2, 2014, 2nd PRESENTMENT OF A COURT OF RECORD AFFIDAVIT NOTICE**
29 **OF DEFAULT IN DISHONOR (Opportunity to Cure) REQUEST FOR PROOF OF CLAIMS TO NON-**
30 **INFRINGEMENT, OFFICIAL CAPACITY & AUTHORITY TO ISSUE TRADEMARK IN REFERENCE**

31 **NOTICE OF AND PETITION FOR REVERSAL OF FINAL REFUSAL OFFICE ACTION AND**
32 **REGISTRATION OF U.S. APPLICATION SERIAL NO. 85819575 October 2, 2014**
33 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
34 **IN REF. TO AFFIDAVIT OF PRIOR USE AND NON-ABANDONMENT OF BIO CORP TRADEMARK**

1 TO: PRIOR USE AND NON-ABANDONMENT OF BIO CORP TRADEMARK(S), NOTICE TO
2 PRINCIPAL IS NOTICE TO AGENT, NOTICE TO AGENT IS NOTICE TO PRINCIPAL WAS
3 DELIVERED TO THE RESPONDENT(S)/DEBTOR(S) BY CERTIFIED MAIL NUMBERS SHOWN
4 ABOVE.

5 **Reference: 5.** February 8, 2014, 1st PRESENTMENT:, COURT OF RECORD AFFIDAVIT OF PRIOR
6 USE AND NON-ABANDONMENT OF BIO CORP TRADEMARK(S), CONDITIONAL ACCEPTANCE
7 FOR VALUE UPON PROOF OF CLAIMS TO NON-INFRINGEMENT, OFFICIAL CAPACITY &
8 AUTHORITY TO ISSUE TRADEMARK, NOTICE TO PRINCIPAL IS NOTICE TO AGENT; NOTICE
9 TO AGENT IS NOTICE TO PRINCIPAL ACCOUNT NO., CAFV-UPOC-CORJ CLAIM # 0296- CUSIP,
10 NO. _____ to be affixed to the Recorded Security Agreement.

11 **Reference: 6.** Reference to: USPTO NOTICE OF ABANDONMENT MAILING DATE DECEMBER 9th
12 2013, NO POSTMARK received on December 23rd 2013, In reference to Serial Number 85819575
13 MISCELLANEOUS DESIGN Bio Corp's Trademark Vitruvian Man. See, a copy of the above referenced
14 USPTO NOTICE attached to the 1st Presentment dated February 8, 2014 as Exhibit 1.

15 **Reference: 7.** NOTICE OF CLAIM OF NON-ABANDONMENT AND CONTINUOUS USE OF THE BIO
16 CORP TRADEMARK(S) IN COMMERCE, VARIOUS VIOLATIONS OF LAW, PIRATING AND
17 INFRINGEMENT ON BIO CORP TRADEMARK(S), BREACH OF CONTRACT AND VIOLATION OF
18 THE PROFESSIONAL CODE OF CONDUCT REFERENCED BELOW:

19 THEREFORE, based on the forgoing the Petitioner is entitled to the relief sought as follows:

20 1. That, the Mir Innovations Inc. Registration Number 4332952 be retroactively voided due to the
21 procedural error in the USPTO's failure to acknowledge the active trademark Registration of Bio
22 Corp Number 2068276 which was in "likelihood of confusion" with the existing Bio Corp
23 Registration Number 2068276 and therefore prohibited from Registration by "SECTION 2(d)
24 REFUSAL – LIKELIHOOD OF CONFUSION".

25 2. That, the subject Bio Corp Application 85819575 be Registered as an active Trademark for the
26 above reasons.

Any damages due the Petitioner will be sought by the referenced Court of Record Default Judgment
and Security Agreement and/or Tort Claim made separately.

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1 IN WITNESS WHEREOF I hereunto set my hand and seal on this 2nd day of October 2014, and
2 hereby certify, swear and affirm under the law of this contract, commercial law U. C. C., the Supreme
3 law of the Constitution for the United States of America, the Bill of Rights, the Declaration of
4 Independence and other Treaties of the United States of America and the state of California Republic
5 that all the statements made above are true, correct and complete based on my personal knowledge,
6 information and belief.
7

8 All Rights Reserved Without Prejudice, Under Reserve U. C. C.

9 Date: 10-02-2014 Affiant: Marshall Edward Mikels
10 Marshall-Edward: Mikels, Secured Party/Creditor/Owner of the Claim and Trademark(s)
11 by Contract and Secured Party Interest in Bio Corp.
12 Marshall-Edward: Mikels, Secured Party/Creditor/Owner of the Landed Estate
13 MARSHALL EDWARD MIKELS / ***-**-8951 or other version of the all CAP entity name
14 And, Authorized Representative For: MARSHALL E. MIKELS, Under FRCP 17 (a)(F) and Bio Corp. The Original 13th
15 Amendment to the Constitution of the United States of America Prohibiting Esquires from Holding Public Office, to the
16 Constitution of the United States of America 1776-1787-1789, Treaties of the United States of America and Postmaster of t
17 document(s) by autographed stamp and seal affixed hereto and void where prohibited by law.

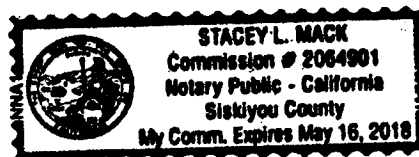
18 JURAT

19 State of California)
20) ss:
21 County of Siskiyou)

22 Subscribed and sworn to (or affirmed) before me on this 2nd day of October, 2014, by

23 Marshall Edward Mikels, proved to me on the basis of satisfactory evidence to b
24 person who appeared before me.

25 Stacey L. Mack
26 (seal) Stacey L Mack / NOTARY Signature"



27 NOTICE OF AND PETITION FOR REVERSAL OF FINAL REFUSAL OFFICE ACTION AND
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1 Marshall-Edward: Mikels, Secured Party/Creditor/Owner of the Claim and Trademark(s) by Contract
2 and Secured Party Interest in Bio Corp, and, Authorized Representative For: MARSHALL E.
3 MIKELS, Under FRCP 17 (a)(F) and Bio Corp. **Mailing Address:** 1625 Grant Road Mount Shasta,
4 California [96067] without U.S.530-918-4162 bio@nctv.com

5 **PROOF OF SERVICE**

6 **UNITED STATES PATENT AND TRADEMARK OFFICE**

7 **BIO CORP and MARSHALL E. MIKELS**

APPLICATION SERIAL NO. 85819575

8
9 Petitioner
10 v.

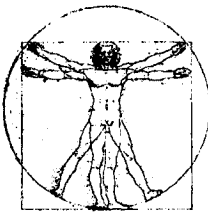
**NOTICE OF AND PETITION
FOR REVERSAL OF FINAL REFUSAL
OFFICE ACTION AND
REGISTRATION OF U.S. APPLICATION
SERIAL NO. 85819575**

11 UNITED STATES PATENT AND
12 TRADEMARK OFFICE,
13 MIR INNOVATIONS INC., GREG CLARK
And. ALPHA MEN'S EDGE NUTRITION, INC.

14 Respondent

- 15 1. At the time of service I was over eighteen (18) years of age and not a party to this action.
16
17 2. My residence or business address is: 205 Mount Shasta Blvd., Suite 400, Mount Shasta CA
18 96067.
19 3. On October 2nd, 2014, I served the following documents by mail:

20 **IN REFERENCE TO:**



24 **Bio Corp's Trademark used since 1991 and claimed in use since April 15, 1992 in**
25 **Registration Number 2964648. Renewal Application 85819575 filed on January 9th 2013, suspended by**
26 **USPTO April 29th 2013, refused on May 13, 2013 on the basis of "likelihood of confusion" with Mir**
27 **Innovations Inc.'s mark shown below in Exhibit 3. See, a copy of the Bio Corp prior trademark design used in**
its application 85819575 and the USPTO acknowledgement response attached to the 1st Presentment dated
February 8, 2014 as Exhibit 2.

PROOF OF SERVICE OF COURT DOCUMENTS IN REF: NOTICE OF REMOVAL OF PETITIONER
VANCE RIDDLE'S PETITION TO EXTINGUISH LIEN TO THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA FOR CONSOLIDATION WITH VERIFIED COMMON LAW
COMPLAINT MIKELS v RIDDLE CASE

DOCUMENTS SERVED

**UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF AND PETITION
FOR REVERSAL OF FINAL REFUSAL OFFICE ACTION AND
REGISTRATION OF U.S. APPLICATION SERIAL NO. 85819575**

From: APPLICANT

BIO CORP. a Delaware Corporation
Marshall-Edward: Mikels Authorized Representative
Correspondence Address Concerning this Petition is:
1625 Grant Road
Mount Shasta, California (96067)

To: USPTO ATTORNEY(s):

TOBY ELLEN BULLOFF, Esquire, Official Capacity
Examining Attorney for the United States.
Patent and trademark Office
Law Office 119, 600 Dulany Street
Alexandria, VA 22314 *U.S. 128590640152995157*

DEBORAH COHN, Esquire, Official Capacity

Commissioner of Trademarks United States
Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22314 *CERTIFIED MAIL # 7013 2250 0001 5791 2720*

OPPOSING PARTY

Mir Innovations, Inc. CORPORATION TEXAS
GREG CLARK Executive Officer, official capacity
And, Greg Clark, individual capacity
534 CONTINENTAL DRIVE, LEWISVILLE TX 75067,
And, Greg Clark CEO Alpha Men's Edge Nutrition, Inc.
2701 Little Elm Pkwy Ste 100 #527 Little Elm, TX 75068 and
534 CONTINENTAL DRIVE, LEWISVILLE TX 75067, *CERTIFIED MAIL # 7013 2250 0001 5791 2737*

4. I served the documents on the person or persons above, as follows:

Name of person served Respondent(s) referenced above:

5. Business or residence addresses where the person or persons were served as indicated by U.S.

Mail to the opposing parties through their attorney Marc D, Bender, or other.

5. By first class U.S. Mail delivery as shown above. I enclosed the documents in a sealed envelope or package addressed to the persons in 3, 4 & 5, in care of their attorney/agent above by depositing the sealed envelope or package with the U. S Postal Service, with the postage fully prepaid.

I declare under the penalty of perjury that the foregoing is true and correct on this 3 day of October 2014.

Declarant: By *Stacey L. Mack* (Seal)

Print Name Stacey L. Mack

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VANCE RIDDLE'S PETITION TO EXTINGUISH LIEN TO THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA FOR CONSOLIDATION WITH VERIFIED COMMON LAW
COMPLAINT MIKELS v RIDDLE CASE

1 Marshall-Edward: Mikels, Secured Party/Creditor/Owner of the Claim and Trademark(s) by Contract
2 and Secured Party Interest in Bio Corp, and, Authorized Representative For: MARSHALL E.
3 MIKELS, Under FRCP 17 (a)(F) and Bio Corp. **Mailing Address:** 1625 Grant Road Mount Shasta,
4 California [96067] without U.S.530-918-4162 bio@nctv.com

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7 BIO CORP and MARSHALL E. MIKELS

APPLICATION SERIAL NO. 85819575

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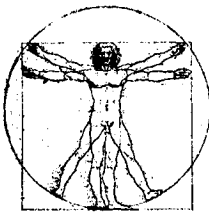
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GREG CLARK Executive Officer, official capacity
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And, Greg Clark CEO Alpha Men's Edge Nutrition, Inc.
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Print Name Stacey L. Mack

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